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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/707,545 | 12/19/2003 | Antonio Mugica | 001-275 | 1544 |
| 29569 | 7590 | 08/08/2005 | EXAMINER | |
| JEFFREY FURR 253 N. MAIN STREET JOHNSTOWN, OH 43031 | | | LEE, SEUNG H | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2876 | |

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/707,545 | Applicant(s) MUGICA ET AL. | |
| | Examiner Seung H. Lee | Art Unit 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| ✓ 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| ✓ 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/19/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "wireless communications" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 9-15 are objected to because of the following informalities:

Please delete repeated phrase "voting device" in line 1 of claim 9,

Re claim 11, line 3: The phrase "said device" lacks proper antecedent basis, the Examiner will consider the electronic voting device as "said device",

Re claim 12, line 4: The phrase "said device" lacks proper antecedent basis, the Examiner will consider the electronic voting device as "said device",

Re claim 13, line 2: The phrase "said device" lacks proper antecedent basis, the Examiner will consider the electronic voting device as "said device",

Re claim 14, line 3: The phrase "said device" lacks proper antecedent basis, the Examiner will consider the electronic voting device as "said device",

Re claim 14, line 3: The phrase "said voter" lacks proper antecedent basis,

Re claim 15, line 2: The phrase "said voter " lacks proper antecedent basis,

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-9 and 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "...and each election choice comprising both election data and a unique identifier; and each said election choice additionally comprising said unique identifier, said identifier being a code that uniquely identifies said election choice..." in claims 1 and 16 are unclear to the Examiner. It is vague and indefinite to the Examiner what the applicant is intending to describe of that the unique identifier of the election choice, that is, what is different between the "a unique identifier" of the election choice (see claim 1, line 6-7 and claim 16, line 18-19) and the "said unique identifier" that is additionally comprised in the election choice (see claim 1, line 8-9 and claim 16, line 20-21). Also, what are the "said identifier" in line 9 of claim 1 and in line 21 of claim 16 referring to, "a unique identifier" of line 7 of claim 1 and line 19 of claim 16, or "said unique identifier" in line 8 of claim 1 and in line 21 of claim 16?

Appropriate correction and clarification is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boram (US 4,641,240) in view of Roberts (US 5,324,922).

Boram teaches an electronic voting system comprising a barcode scanner device (30) serving as an electronic voting device having as a chassis with an optical scanning means (not shown) for reading identifier or barcodes indicating names of the candidates' office (106) and name of candidate (108) affixed/printed on ballot, the scanner also comprising data transmission means (not shown) for transmitting the read/scanned off the ballot to an external system or computer (20) via the cable as shown in figure 1, wherein the barcode scanner device is designed to hold by hand of user, the computer is a part of an electronic voting system with communication means (not shown) for establishing a communication channel with the scanner via the cable, the scanner having a trigger for activating the scanner wherein the trigger serves as an activation button in which the trigger is activated whenever the user wish to scan the ballot, also Boram suggest that the absentee ballots can be used for inputting election data in case of breakage of an electronic voting machines (10), the computer totalize the election results (see Abstract; figs. 1 and 7; col. 3, line 32-col. 5, line 46; col. 9, lines 15-59).

However, Boram fails to particularly teach that the voter scans his/her selection from a plurality of choices.

Roberts teaches a poll and survey program wherein the questions and answers can be printed with unique barcodes in which the user can scan barcodes using wand (21) (see figs. 1, 15-17; col. 12, lines 38-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Roberts to the teachings of Boram in order to expedite the voting process wherein voter can just scan his/her selection from the plurality of candidates printed on the paper which eliminates un-necessary steps of removing and affixing barcodes.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boram as modified by Roberts as applied to claim 9 above, and further in view of VanHorn et al. (US 5,736,726)(hereinafter referred to as 'VanHorn').

The teachings of Boram/Roberts have been discussed above.

Although, Boram/Roberts teaches the electronic voting system having a scanner for reading off from the ballot, they fail to particular teach that the scanner is communicating with the compute wirelessly.

However, VanHorn teaches a portable data collection device such as barcode reader (100) for scanning/reading barcode and communicating with devices connected to a wired backbone system (see figs. 1 and 2; col. 1, lines 26-39; col. 4, lines 7-50)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of VanHorn to the teachings of Boram/Roberts in order to provide an improved voting system by adapting the wireless scanner for selecting voter's choices wherein such voter's choice can be transmitted to the voting system wirelessly, that is, the voting enclosure can be located anywhere

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within the voting facility without needs of wired connection in order to receive voters' choice.

Additional Remarks

8. The lack of an art rejection with this Office action is not an indication of allowable subject matter (i.e., even though the claims 1-9 and 16-20 are rewritten or amended to overcome the Claim Objections as discussed above). The disclosure/claimed language is such that it is impractical to conduct a reasonable search of the prior art by the Examiner.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Warther (US 6,779,727) discloses a voter ballots and authentication system,
Chung et al. (US 6,892,944) discloses an electronic voting apparatus and
method for optically scanned ballot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seung H. Lee whose telephone number is (571) 272-2401. The examiner can normally be reached on Monday-Friday, 7:30 AM- 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Seung H Lee
Art Unit 2986
July 28, 2005